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ABSTRACT

The current movement in higher education to embrace collective bargaining has not yet reached broadly into the South and the West. Several events have occurred both nationally and in these regions, however, which seem to foretell that organized neogtiations may become a part of regional campus procedures. The implications of these events, as well as the collective bargaining process itself and its consequences are analyzed. This analysis is constructed to demonstrate to faculty and administrators of the South and the West that continued lack of concern about this issue at this time will lead to a situation where reaction to these pressures becomes the norm, because proaction was initiated too late. (Author)

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THE ROAD AHEAD IN THE SOUTH AND THE WEST

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Collective Bargaining in Higher Education
The Road Ahead in the South and the West

The current trend in higher education to embrace collective bargaining as the mode for resolution of campus pressures has led some educators to see collective bargaining as an end-all to our system of higher education, while others view it as a cure-all for the problems in our colleges and universities. Although neither extreme is accurate, there is one conclusion with which almost everyone agrees--collective bargaining in higher education is a fact (Ladd and Lipset, 1973). While there probably is less agreement in the South and the West about that conclusion, there is increasing evidence and pressure that some form of collective negotiations is going to affect education in these regions. Even though the evidence is accumulating almost daily, the response from faculty and from administrators usually has been one of polite neglect.

Educators in the South and in the West seem to believe that collective bargaining cannot overcome the traditions of the regions. This belief is evidenced by a lack of specific action to become better informed and prepared and also by comments like "our faculty would never support bargaining," "the legislature would never allow such a proposal to become law," or "I don't want to talk about it." The prupose here is to discuss some recent developments and their implications as they bear on collective bargaining in these two regions and also to examine the process of collective bargaining, as well as consequences of that process, which should be investigated now while there is still time to act in a positive manner. This attempt is made to raise the

consciousness of educators about this issue, regardless of which side of the bargaining table individual sentiments might lie, in order to promote the desired debate to challenge these sentiments.

CURRENT STATUS

The collective bargaining movement in education has been a recent phenomenon which has had unbelievable growth, especially in the last 10 years. In higher education, specifically, the numbers have increased from the nine institutions with bargaining agents in 1968 (Semas, November, 1973) to approximately 400 currently. Though the growth has slowed in colleges and universities in 1973 and 1974, acceptance by educators of the thought that collective bargaining is just another passing educational fad would be a crucial mistake. The 23 states in the South and in the West considered here encompass more than 450,000 employees in 1,200 postsecondary institutions (Tice, 1973), so that even if the decline in the rate of new bargaining units were to continue nationally, the result would be increased pressure from the national organizations to find new members from among this "great untapped source" that exists in the South and in the West.

More faculties nationally are represented by the National Education Association (NEA) than by the American Federation of Teachers (AFT) or the American Association of University Professors (AAUP), but independent unions also represent a significant number of institutions (Carr and Van Eyck, 1973). The majority of formally organized campuses are community colleges (Smart and Rodgers, 1973), but senior level institutions have shown the fastest growth pattern recently.

Twenty-three states, generally excluding most of the South and many states in the West, now have varying degrees of enabling legislation which

establishes the rules and the state agency to administer collective bargaining for employees in higher education. Legislation is not legally required, but practically, it is necessary in order to have good faith bargaining. This is where the effort for collective bargaining usually exists initially---in the state capitol.

RECENT DEVELOPMENTS

No matter which side of the issue, particular professional groups' sentiments might lie or the traditions of the South and the West may be, there have been regional and national developments within the past year that will affect the future of collective negotiations in these regions, the implications of which no longer can be avoided.

1) National associations' increased organizing efforts

The NEA has been reported to have increased its national organizing staff and has doubled its organizing budget to two million dollars for this year alone. In an attempt to launch an aggressive organizing campaign, the AAUP has elected "a political activist", who has entered the turmoil over the dismissal of the president of the University of Texas last year and the current furor there now. Albert Shanker of the New York City Federation of Teachers has been elected as the AFT's national president. He has listed among his priorities for AFT organizing---a) college and university faculties, and b) California, Florida, Louisiana, and Texas (Semas, September, 1974). To ignore these organizing efforts, especially with higher education, the South and the West identified as major targets, would not be professionally prudent.

2) A national collective bargaining law

Many educators have been relying on state and regional traditions and legislators' resistance to collective public employee bargaining, as insurance

against having to face the bargaining issue locally. At the end of 1974, however, the NEA made a dramatic shift in policy regarding its desire for a public agency separate from the National Labor Relations Board (NLRB) to have jurisdiction for teacher employee negotiation matters. The alliance with the AFT on this issue, along with the large shift in the membership of the House of Representatives has led to almost unanimous predictions that a national collective bargaining bill will be passed by the 94th Congress. The potential dominance of federal law, as represented by the Thompson bill (H.R. 77), especially in the absence of state statutes for mandatory bargaining, could influence significantly the character of collective bargaining negotiations in these two regions. With regional reticence toward bargaining increasing, the shift from state capitols to Washington by national bargaining advocates appears to have significant implications for the South and the West.

3) Increased action by diverse public employee groups

Throughout the discussions about bargaining the term has been public employee negotiations. Many in higher education have not recognized the significant implications of collective bargaining attempts by such diverse groups as police, public school employees, firefighters, and county and municipal workers. The ultimate legislation whether by national statute or state law will not be determined by educators alone. The recent actions by police and firefighters in Texas to get referenda on local ballots, organizing activity by municipal workers in Louisiana, and actions of police in Albuquerque, San Francisco, and Oklahoma City attest to the growing concern and action among all employees. Public employees in these two regions number well over four million, (Tice, 1973), which represents a

potentially potent force politically.

4) Regional events

Several significant policies, court cases, and new statutes in the South and the West have emphasized the concept of public employee rights formally and would seem to indicate that much more activity is forthcoming. A few examples are provided below (NEA-NRD).

a) Florida, as one of the target states, has enacted a new collective bargaining law, which took effect in January, 1975.

b) Texas, as one of the target states, considered the report of its Public Employee Study Commission, which made general policy recommendations that related to a proposal for a "meet and confer" statute. Three separate bills dealing with various aspects of the bargaining issue were introduced into the recent legislative session and although one was reported out favorably, it was not brought to a vote.

c) In Georgia the Chatham Case resulted in a court decision which cited the need for enabling legislation to provide the basis for collective employee action and in Atlanta a combined teacher/support personnel coalition represented by local affiliates of NEA and AFSCME (American Federation of State, County, and Municipal Employees) held a one day strike this fall.

d) In Alabama the Solomon Act, which was an anti-union statute, was declared unconstitutional and void and although a bill enabling collective bargaining in education died in the education committee of the legislature's lower house, the senate had passed it by a substantial vote and Governor Wallace to the surprise of some observers did not oppose the bill.

e) In Louisiana, as one of the target states, a combined AFT/NEA agent won a bargaining rights representation election in New Orleans last November; New Orleans municipal workers selected a sole bargaining agent this last winter; and in April, 1975, Jefferson Parish teachers approved collective bargaining with a vote of 2284-390.

f) In California, as one of the target states, the effort to provide a comprehensive bargaining law had difficulty, even though Governor Brown advocated it, and as a result a compromise bill covering most educational employees has been passed, signed, and will be in effect on January 1, 1976.

g) In Houston, Little Rock, San Francisco and Memphis, among other cities of these two regions, varying degrees of bargaining have been instituted, even though enabling legislation is not yet in effect.

THE NEGOTIATION PROCESS

Bargaining is organized by those either internal or external to the campus, who sense some sentiment or conflict which could benefit from the negotiations process. Collective bargaining itself is a process where representatives of the employee and the employer determine wages, hours, and conditions of employment, resulting in a contract for a specified duration. It is an adversary relationship by law and by tradition. Even so, the major problem with collective bargaining unfortunately is that few faculty or administrators are prepared for the consequences of the process.

The process of recognition of the bargaining unit and the sole bargaining agent depends on the specific law, so what is presented below is a composite of many state statutes and NLRB rulings as well as personal experiences with the process from both sides of the bargaining process.

The determination of campus personnel must be made in a formal manner initially. This is accomplished through a petition type process, which can be long and intense and which usually results in an election. The first prospective agent must gather the signatures of at least 30 per cent of the faculty and staff, which is verified by the state agency in order for an election to occur. Any other prospective agent thereafter must gather 10 per cent of the faculty and staff members' signatures in order to appear on the ballot.

A hearing then is held before the election by the state agency to determine the membership of the bargaining unit. Unit organizers want as many members as possible, while the insitiution wants as few as possible and those that make organizational sense. An important concept is that faculty collective bargaining affects all professional staff

potentially, not just the instructors, but librarians, counselors, student development staff, and instructional development and learning resources staff, whether or not they might want to be included. Another decision that must be made concerns whether institutions with more than one campus will have a separate unit for each campus or be represented by one unit -- there is strength in numbers and unity of purpose, but differing problems on each campus.

An election, then, is announced and held under the direction of the state agency. All certified prospective agents, plus a "no union" choice, appear on the ballot. Campaigning goes on in the most partisan sense and a winner is declared by a simple majority of those voting; or if necessary a run-off is held between the two choices receiving the most votes.

After the sole bargaining agent has been selected, this highly public process becomes quiet to enable work on the contract to be accomplished. The initial act after the agent has been certified is the crucial task of selecting negotiating teams. The bargaining agent then presents a list of demands and the process continues in good faith until agreement is reached and a contract is signed; unless fact finding, mediation, or arbitration is needed to resolve an impasse.

CONSEQUENCES

The collective bargaining process described briefly above has consequences for every phase of campus life, regardless of one's sentiments about this volitile issue. Negotiating is an adversary process and as such, regardless of the best intent of both sides to the contrary, relationships will be defined by the contract, the law, and the state agency which administers public employee collective bargaining. This means that a

certain rigidity will occur with regard to operating procedures, but accountability is more likely for both sides.

All unit members are represented by the winner, even if they are not members or do not vote for the agent, or do not vote at all. A significant point is that a majority vote for collective bargaining does not necessarily represent a majority for the agent's position on issues.

Although a contrary development has been increasing nationally, few elections result in defeat of a sole bargaining agent, especially true in public institutions and in community colleges. Once an agent is elected at a campus, it is rare that it will ever be decertified, particularly not without a real battle, and then it is usually done to replace a particular agent rather than to eliminate the process itself, e.g., the University of Hawaii.

The content of the bargaining process is wages, hours, and conditions of employment, which means that anything, virtually anything, for which the agent is willing to strike, will be negotiated. Anything is negotiable for both parties, however. The initial contract is especially important because it sets precedent on all procedures. All previous policies and agreements, as well as operating procedures, are open for negotiations, even though most faculty and administrators believe they are starting from where they have been before collective bargaining. This is important for management rights but also for the agent's attempts to attract members.

There is a tendency toward salary parity and reduction of differential salary increments. Even though disclaimed by bargaining agents, generally merit pay is hostile to negotiations. Collective bargaining tends to eliminate all salary discrimination, when possibly only unfair discrimina-

tion needs to disappear. One result is that staff recruitment may often be difficult; however, personal discrimination in salary matters can be abated.

Curriculum programming decisions made at the bargaining table may not be appropriate, due to the lack of input during the negotiating process from the resources for the curriculum or the recipients of curriculum. Increasing costs can result in a pruning of expensive programs regardless of need or quality. Revision of curriculum also may be delayed or abolished because faculty committees for that purpose may come under contract provisions for "extra duty pay" in an era of restricted budgets. Administrators, on the other hand, are restricted from "calling on" their faculty to help them "out of a tight spot."

There are also significant consequences for students. With the current laws and NLRB interpretations students are restricted as observers or members of a team by invitation (Chronicle, March, 1974), and they are asking how they can preserve the little power they have remaining. If bargaining controls classroom contingencies, how is student input gathered in any meaningful ways? If the system becomes more rigid, how can students be served effectively? If collective bargaining does lead to higher salaries, what effect does this have on tuition, or for that matter on the essense of the increasing number of institutions who are accepting and operating under the philosophy of open admissions and low or no tuition? Increasing efforts by student groups, however, to formally become a part of the bargaining process is seen as an effort to gain power that was not a consequence of their protests of the 1960's, e.g., Stockton State College.

CONCLUSION

There is a certain momentum to the collective bargaining process on campus once a law is enacted. Although there are many specific actions that ought to be undertaken now, the most essential process is that informed analysis that take place before action. Very seldom has any guidance been offered or accepted by faculty or administrators before the fact to assist in developing a position on collective bargaining for their particular campuses. The time to consider whether or not there ought to be enabling legislation or collective bargaining on campus is before an organization drive begins, not after representatives of the national organizations move into town.

Many personnel in these two regions have indicated that they believe they are far behind the trend in most other states for collective bargaining in colleges and universities. Personal experience in both environments has convinced me that, rather than being behind, a great potential exists in the West and the South to control and develop the most positive aspects of bargaining for application to particular campuses. This potential will be realized, however, only if proactive measures are begun immediately. Information sessions, for example, must be encouraged now to thoroughly discuss the issues on individual campuses or at state or regional professional meetings, rather than to "push the issue under the rug and hope that it will go away." Essentially, it is the existence of legislation enabling collective negotiations that creates the growth in organizing efforts, not the rational discussion of the issue's merits or disadvantages before a law has been enacted. Discussions ought to occur not only among faculty groups, but also among administrators and also with governing boards, as the issue develops. All parties must be informed and able to debate the issue openly with each other before any

formal legal action restricts combined meetings.

Collective bargaining is not yet widespread in the region, but with the recent developments and their consequences described above, continued lack of action by those involved in higher education in the South and the West on the negotiations issue can no longer be considered as professionally responsible or practically effective.

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